IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Nihal Singh. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 583/2005

and

Nihal Singh. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 582/2005

...

Date of Order: September 14, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Niranjan Singh, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Pradeep Shah, for the non-petitioner No.2.

BY THE COURT:

Both these criminal miscellaneous petitions under Section 482 Cr.P.C. are directed against the order dated 24-2-2005 passed by the Additional Sessions Judge No.3, Jodhpur (for short, "the Revisional Court" hereinafter) in Criminal Revision Petitions No. 6/2005 and 5/2005 filed by the petitioner against the order dated 12-1-2005 passed by the Additional Chief Judicial Magistrate No.2, Jodhpur (for short, "the trial Court"

hereinafter) in Criminal Cases No.673/2003 and 674/2003, whereby the trial Court decided to frame charges against the petitioner for the offences under Sections 420, 467, 468. 471 IPC.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the trial Court as well as the Revisional Court.

The Revisional Court, considering the documents filed by the accused-petitioner and keeping in view the decision of the Hon'ble Supreme Court in K.M. Methew Vs. State of Kerala & Anr., JT 1991 (4) SC 464, set aside the order passed by the trial Court and discharged the present non-petitioner No.2.

The order impugned passed by the Revisional Court apparently appears to be erroneous. A Three Judge Bench of the Hon'ble Supreme Court, in Adalat Prasad Vs. Roop Lal Jindal & Anr., (2004) 7 SC 243, held that the view taken in K.M. Methew's case does not lay down the correct law. The Apex Court in State of Orissa Vs. Debendra Nath Padhi, JT 2004 (10) SC 303, held that at the time of framing the charge or taking cognizance, the accused has no right to produce any material. The Apex Court further observed that the only right available to the accused at this stage is of being heard and nothing beyond it.

Keeping in view the aforesaid decisions of the

Hon'ble Supreme Court, the orders impugned passed by the Revisional Court deserve to be set aside.

In the result, both the criminal miscellaneous petitions are allowed. The orders impugned passed by the Revisional Court are set aside and the matter is remanded to the Revisional Court to decide the revision petitions on merit.

(H.R. PANWAR), J.

mcs